

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

X

H Katz

Plaintiff,

against

Joe R Mogus
All That Gitter Inc

Defendant (s)

NOTICE OF MOTION

06 cv _____ 0574

(docket number) (judge's initials)

D.L. Inizay

06CV05474

PLEASE TAKE NOTICE that upon the annexed affidavit or

affirmation Joe R Mogus sworn to or affirmed

gr 11/1 2006, 20 and upon the complaint herein,
Joe R Mogus
plaintiff will move this Court, Honorable Denis Lizotte Inizay
(Judge's name) U.S.D.J.,

in room _____ United States Courthouse, Brooklyn, New York, 11201,

on the 11th day of NOV. 2006, at (time) or as

soon thereafter as counsel can be heard, for an order pursuant to

Rule _____ of the Federal Rules of Civil Procedure granting

by motion for a dismissal of the case

06CV05474 - H Katz VS Joe R Mogus
All That Gitter Inc

Dated: 10/30/06 [County] New York

Benton - Oregon
(date)

FILED

IN CLERK'S OFFICE
U.S. DISTRICT COURT, E.D.N.Y.

★ NOV - 1 2006 ★

BROOKLYN OFFICE

Joe R Mogus
Joe R Mogus

PLAINTIFF PRO SE

Mailing -

PO Box 422

Corvallis Oregon

97333

Phone

541-929-5462

cc. Shmuel Klein - Atty

Today Nov 1 / 2006 - am asking this
honorable court to dismiss this case
06 CV 05474 Katz vs Joe R Mogus / All
That Glitter Inc

I am asking this as I recently had the
revelation (revealed during telephone conference
of Oct 26/2006) regarding the citizenship
of Howard Katz

note
exhibit

Note exhibit - Katz referred to as domici-
lary - resident yes at least part time
in Brooklyn - BUT is Mr Howard Katz an
American Citizen, or in fact not, but a
Canadian Citizen living in New York.

note
exhibit

The crucial question is Mr Howard Katz
an American Citizen or not?

note
exhibit

The predicate of jurisdictional authority
for this court as I see is diversity of
citizenship - with myself an American citizen
of West Virginia (at time of complaint served)
and Howard Katz an American Citizen in
Brooklyn New York - is Howard Katz an
American citizen? or Canadian living
in Brooklyn - and then only part of the year.
An alien, Howard Katz?

I have known Howard Katz for 20 years +
he told me numerous times he was born
in Canada and remained a Canadian citizen
not an American Citizen. Has he now be-
come an American? How recently? The
man I did business with since 1985 was
a Canadian, proud of it and to best of my
knowledge remains one.

10/30/07

I am an American citizen born in Braddock Pennsylvania - 7/9/1950.

I brought this to the courts attention at first opportunity as it obviously has great bearing on the case.

Sincerely

Joe R Myers

P.S. Should Ketz, Howard become a citizen is not to my knowledge and he can easily prove citizenship (American) and at what date this occurred.

The better view appears to be that which holds fraud in the inducement to be available as a defense at law.¹⁴ The opposite view depends on artificial distinctions such as the presence of a seal¹⁵ or the type of fraud, rather than on the factor which should be determinative—the adequacy of the legal remedy. So long as a court of law is capable of doing justice between the parties there is no need for invoking equitable relief.¹⁶ Also of importance is the fact that a constitutional right depends on whether the defense of fraud is legal or equitable. If such a defense can be classified historically as either legal or equitable, then it should be treated so as to retain the right to jury trial. Any restriction of this basic right must come from the people by the amendment process, not through artificial judicial classifications.

James W. Beatty, S.Ed.

Exhibit C

FEDERAL PROCEDURE—VENUE—RIGHT OF ALIEN UNDER DIVERSITY OF CITIZENSHIP CLAUSE OF 28 U.S.C. § 1391 (a)—Plaintiff, a citizen of France and resident of New York City, sought a declaratory judgment and restraining order against several defendants residing in different states. On the theory that a suit involving a citizen of France and citizens of the United States constituted "diversity of citizenship" under 28 U.S.C. § 1391 (a), and therefore could be brought where all of the plaintiffs or all of the defendants resided, the action was laid in the federal district court of New York where the plaintiff resided. Defendant moved for dismissal on the ground that this was "alienage," not "diversity of citizenship" as intended under the code, and consequently the suit could not be brought in the district of the plaintiff's residence. Held, motion sustained. By the words "diversity of citizenship" the legislature did not intend to change the old rule that aliens could sue only in the judicial district where all of the defendants resided. Because all of the defendants did not reside in the same district, several would have to be dropped or the case dismissed. *Du Roure v. Alvord*. (D.C. N.Y. 1954) 120 F. Supp. 166.

exhibit. B

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
HOWARD KATZ,
Plaintiff

v.

JOE ROBERT MOGUS AND
ALL THAT GLITTERS, INC.
Defendant.
-----X

06 0574
IRIZARRY
Civil Action No. _____
JURY DEMANDED

COMPLAINT AND DEMAND FOR JURY TRIAL

NOW INTO COURT, through undersigned counsel, comes HOWARD KATZ, Plaintiff in the above entitled and captioned matter, who respectfully prays for Judgment of this Honorable Court against defendant, as set forth in the following complaint, as follows:

1. Plaintiff, HOWARD KATZ, is a domiciliary of Brooklyn, New York, and transacts business in this District.

2. Defendant herein is JOE ROBERT MOGUS AND ALL THAT GLITTERS, INC., also hereinafter be referred to as "MOGUS AND ALL THAT GLITTERS, INC." transacts and does business in the following places: 125 Ruff Grouse Rd Berkley Springs, West VA 25411; and PO Box 531, Berkley Springs, West VA 25411 and PO Box 602, Cross Junction VA 22625.

Domiciliary! - Citizen?

JURISDICTION OF THE COURT AND VENUE

3. Plaintiff respectfully asserts that this Honorable Court has jurisdiction in this case arises under federal law. 28 U.S.C. 1331. Further, the matter in controversy exceeds \$75,000.00, exclusive of costs and interest and the parties to these proceedings are citizens of different states.

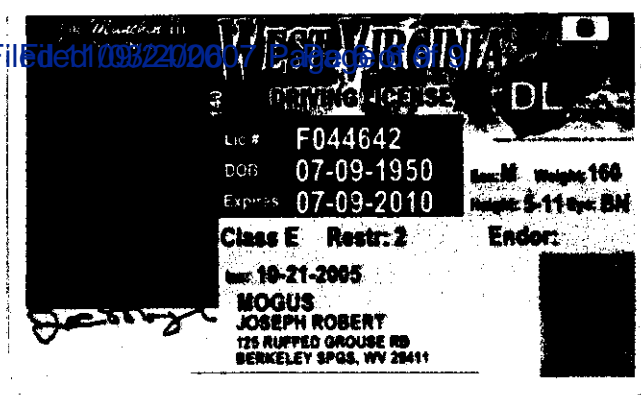


Exhibit A

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORKHoward Katz
Plaintiff,

-against-

Joe R Moskus
Defendants.All That Glitter Inc

Affirmation of Service

06 cv 05474)

I, Joe R Moskus, declare under penalty
of perjury that I have served a copy of the attached Notice of
Motion and Affirmation/Affidavit in support upon

Attorney Shmuel Kleinwhose address is 268 Route 59Spring Valley New York 10977

Dated:

11/1/06

Joe R Moskus
SignatureJoe R MOSKUS

Address

PO Box 422

City, State & Zip Code

Conventus Oregon 97333

Telephone

541 929 5462

WHEREFORE, I respectfully request that the court grant the within motion, as well as such other and further relief that may be just and proper.

I declare under penalty of perjury that the foregoing is true and correct.

NOV 1 2006
Executed on _____
(Date)

Joe R Wagoner
Your Signature

Print your name

Joe R Wagoner



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FAX TRANSMITTAL FORM

CORVALLIS MAIL CENTER

131 NW 4TH ST.
CORVALLIS OR 97330
541-754-9941
FAX 541-766-8370

To Atty S. Klaw

From Joe Mogus

PHONE

FAX PHONE 845 425 7362

PHONE - 541 929 5462
FAX PHONE

DATE SENT: 10/31/06

TIME SENT:

NUMBER OF PAGES INCLUDING COVER PAGE:

Only This Page

* **URGENT**

FOR REVIEW

PLEASE COMMENT

PLEASE REPLY

Message:

* New address

Copy of
fax to S. Klaw
plaintiff
Atty

Joe R MOGUS
PO Box 422

Corvallis Oregon

97339-0422

Please don't misplace it, Sir -!

Thank You

Joe R Mogus

cc. Judge via Pro Se
10/12/07

Please note all Copies sent